

### **REMARKS**

Reconsideration of this application in light of the above amendments and the following remarks is respectfully requested.

#### **Status of the Claims**

Claims 1-12 and 15-18 are pending in this application, with claims 11-12 being withdrawn from consideration. Claims 13-14 were canceled by prior amendment without prejudice or disclaimer of the subject matter recited therein.

Applicants appreciatively acknowledge the Examiner's indication that dependent claims 4 and 9 would be allowable if rewritten to be in independent form and recite the limitations of their base and any intervening claims.

#### **Status of the Specification**

The Specification was objected to for containing the informality of not updating the status of U.S. Patent Applications listed therein. Appropriate correction has been made. Additionally, the identification of an International Application has been amended to include its serial and publication numbers. No new matter has been added.

Reconsideration and withdrawal of the objection to the Specification is respectfully requested.

#### **Double Patenting Rejection**

Claims 1-3, 5-8, 10 and 15-18 stand rejected under the judicially-created non-statutory double patenting rejection doctrine as being unpatentable over claims 1, 3, 21, 28, 30, 31, 45 and 46 of U.S. Patent No. 7,466,489.

Applicants would like to point out that the present application and U.S. Patent No. 7,466,489 were, at the time of the present invention, owned by Carl Zeiss SMT AG or subject to an obligation of assignment to Carl Zeiss SMT AG.

Accordingly, a Terminal Disclaimer is submitted concurrently herewith disclaiming that portion of any patent issuing from the present application that would exceed the enforceable period of the commonly owned U.S. Patent No. 7,466,489.

Reconsideration and withdrawal of the non-statutory double patenting rejection of claims 1-3, 5-8, 10 and 15-18 based on U.S. Patent No. 7,466,489 is respectfully requested.

**CONCLUSION**

In view of the foregoing it is believed that remaining claims 1-10 and 15-18 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

The Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this submission, or to credit any overpayment, to Deposit Account No. 04-0100.

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Respectfully submitted,

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